

**Introduced by Senator Lieu**February 22, 2013

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An act to amend Section 216 of the Public Utilities Code, relating to public utilities.

## LEGISLATIVE COUNSEL'S DIGEST

SB 767, as introduced, Lieu. Public utilities.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities and can establish its own procedures, subject to statutory limitations or directions and constitutional requirements of due process. The Public Utilities Act provides the commission with specified regulatory authorities over public utilities. The act defines the term “public utilities” for the purposes of the act.

This bill would make technical, nonsubstantive changes to that definition.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 216 of the Public Utilities Code is
- 2 amended to read:
- 3 216. (a) “Public utility” includes every common carrier, toll
- 4 bridge corporation, pipeline corporation, gas corporation, electrical
- 5 corporation, telephone corporation, telegraph corporation, water
- 6 corporation, sewer system corporation, and heat corporation, where
- 7 the service is performed for, or the commodity is delivered to, the
- 8 public or any portion thereof.

1 (b) Whenever ~~any~~ a common carrier, toll bridge corporation,  
2 pipeline corporation, gas corporation, electrical corporation,  
3 telephone corporation, telegraph corporation, water corporation,  
4 sewer system corporation, or heat corporation performs a service  
5 for, or delivers a commodity to, the public or any portion thereof  
6 for which any compensation or payment whatsoever is received,  
7 that common carrier, toll bridge corporation, pipeline corporation,  
8 gas corporation, electrical corporation, telephone corporation,  
9 telegraph corporation, water corporation, sewer system corporation,  
10 or heat corporation, is a public utility subject to the jurisdiction,  
11 control, and regulation of the commission and ~~the provisions of~~  
12 this part.

13 (c) When ~~any~~ a person or corporation performs ~~any~~ a service  
14 for, or delivers ~~any~~ a commodity to, any person, private  
15 corporation, municipality, or other political subdivision of the  
16 state, that in turn either directly or indirectly, mediately or  
17 immediately, performs that service for, or delivers that commodity  
18 to, the public or any portion thereof, that person or corporation is  
19 a public utility subject to the jurisdiction, control, and regulation  
20 of the commission and ~~the provisions of~~ this part.

21 (d) Ownership or operation of a facility that employs  
22 cogeneration technology or produces power from other than a  
23 conventional power source or the ownership or operation of a  
24 facility which employs landfill gas technology does not make a  
25 corporation or person a public utility within the meaning of this  
26 section solely because of the ownership or operation of that facility.

27 (e) ~~Any~~ A corporation or person engaged directly or indirectly  
28 in developing, producing, transmitting, distributing, delivering, or  
29 selling any form of heat derived from geothermal or solar resources  
30 or from cogeneration technology to ~~any~~ a privately owned or  
31 publicly owned public utility, or to the public or any portion  
32 thereof, is not a public utility within the meaning of this section  
33 solely by reason of engaging in any of those activities.

34 (f) The ownership or operation of a facility that sells compressed  
35 natural gas at retail to the public for use only as a motor vehicle  
36 fuel, and the selling of compressed natural gas at retail from that  
37 facility to the public for use only as a motor vehicle fuel, does not  
38 make the corporation or person a public utility within the meaning  
39 of this section solely because of that ownership, operation, or sale.

1 (g) Ownership or operation of a facility that is an exempt  
2 wholesale generator, as defined in the Public Utility Holding  
3 Company Act of 2005 (42 U.S.C. Sec. 16451(6)), does not make  
4 a corporation or person a public utility within the meaning of this  
5 section, solely due to the ownership or operation of that facility.

6 (h) The ownership, control, operation, or management of an  
7 electric plant used for direct transactions or participation directly  
8 or indirectly in direct transactions, as permitted by subdivision (b)  
9 of Section 365, sales into a market established and operated by the  
10 Independent System Operator or any other wholesale electricity  
11 market, or the use or sale as permitted under subdivisions (b) to  
12 (d), inclusive, of Section 218, shall not make a corporation or  
13 person a public utility within the meaning of this section solely  
14 because of that ownership, participation, or sale.

15 (i) The ownership, control, operation, or management of a  
16 facility that supplies electricity to the public only for use to charge  
17 light duty plug-in electric vehicles does not make the corporation  
18 or person a public utility within the meaning of this section solely  
19 because of that ownership, control, operation, or management. For  
20 purposes of this subdivision, “light duty plug-in electric vehicles”  
21 includes light duty battery electric and plug-in hybrid electric  
22 vehicles. This subdivision does not affect the commission’s  
23 authority under Section 454 or 740.2 or any other applicable statute.